

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

THEODORE C. LANGE

Plaintiff,

v.

Civil No. 05-3054-CO

ORDER AND FINDINGS
AND RECOMMENDATION

SECRETARY OF THE INTERIOR,

Defendant.

COONEY, Magistrate Judge:

Plaintiff's application to proceed in forma pauperis demonstrates that he is unable to afford the costs of this action. Accordingly, IT IS ORDERED that the provisional in forma pauperis status given plaintiff is confirmed. However, the Clerk of Court shall not issue process. Instead, it is recommended that plaintiff's complaint be dismissed and plaintiff be ordered to file an amended complaint containing the information noted below.

DISCUSSION

Pursuant to Fed. R. Civ. P. 8(a), a complaint shall include "(1) a short and plain statement of the grounds upon which the court's jurisdiction depends . . ., (2) a short plain statement of the claim showing the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks." If the factual elements of a cause of action are scattered throughout the complaint but are not organized into "a short, plain statement of the claim", dismissal for failure to satisfy Rule 8(a) is proper. Sparling v. Hoffman Constr. Co., 864 F.2d 635, 640 (9th Cir. 1988).

Plaintiff's complaint does not satisfy the requirements of Rule 8. The complaint does not contain a short, plain statement showing the pleader is entitled to relief or a statement of jurisdiction. Based on the complaint plaintiff filed the court cannot tell whether plaintiff states a cause of action.

ORDER

It is ordered that the provisional in forma pauperis status given plaintiff is confirmed.

RECOMMENDATION

It is recommended that plaintiff's complaint be dismissed for failure to comply with the requirements of Rule 8 and that plaintiff be ordered to file an amended complaint, containing the information noted above. Plaintiff is advised that if he is ordered to file an amended complaint, failure to file an amended complaint within the time limit set by the court will result in dismissal of this proceeding.

The recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The plaintiff shall have ten days from the date of service of a copy of this recommendation within which to file specific written objections with the Court. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this ____7____ day of July, 2005.

_____/s/____

UNITED STATES MAGISTRATE JUDGE